

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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WINSTON N. REED,

Plaintiff,

v.

JEREMY BEAN, *et al.*,

Defendants.

Case No. 2:24-cv-01627-RFB-DJA

DISMISSAL ORDER

Plaintiff Winston Reed brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated at High Desert State Prison. ECF No. 9-1 at 1. On April 10, 2025, this Court ordered Reed to file an amended complaint within 30 days. ECF No. 9 at 7. The Court warned Reed that the action could be dismissed if he failed to file an amended complaint by that deadline. *Id.* That deadline expired, and Reed did not file an amended complaint, move for an extension, or otherwise respond. In addition, Reed is no longer incarcerated and has failed to update his mailing address, so his mail is being returned as undeliverable.

I. DISCUSSION

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. Thompson v. Hous. Auth. of City of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. See Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); Malone v. U.S. Postal Service, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to dismiss an action on one of these grounds, the Court must consider: (1)

1 the public's interest in expeditious resolution of litigation; (2) the Court's need to manage its
 2 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
 3 cases on their merits; and (5) the availability of less drastic alternatives. See In re
 4 Phenylpropanolamine Prod. Liab. Litig., 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting Malone,
 5 833 F.2d at 130).

6 The first two factors, the public's interest in expeditiously resolving this litigation and the
 7 Court's interest in managing its docket, weigh in favor of dismissing Reed's claims. The third
 8 factor, risk of prejudice to defendants, also weighs in favor of dismissal because a presumption of
 9 injury arises from the occurrence of unreasonable delay in filing a pleading ordered by the court
 10 or prosecuting an action. See Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976). The fourth
 11 factor—the public policy favoring disposition of cases on their merits—is greatly outweighed by
 12 the factors favoring dismissal.

13 The fifth factor requires the Court to consider whether less drastic alternatives can be used
 14 to correct the party's failure that brought about the Court's need to consider dismissal. See Yourish
 15 v. Cal. Amplifier, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less drastic
 16 alternatives before the party has disobeyed a court order does not satisfy this factor); accord
 17 Pagtalunan v. Galaza, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that “the persuasive
 18 force of” earlier Ninth Circuit cases that “implicitly accepted pursuit of less drastic alternatives
 19 prior to disobedience of the court's order as satisfying this element[,]” *i.e.*, like the “initial granting
 20 of leave to amend coupled with the warning of dismissal for failure to comply[,]” have been
 21 “eroded” by Yourish). Courts “need not exhaust every sanction short of dismissal before finally
 22 dismissing a case, but must explore possible and meaningful alternatives.” Henderson v. Duncan,
 23 779 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed until and
 24 unless Reed files an amended complaint, the only alternative is to enter a second order setting
 25 another deadline. But the reality of repeating an ignored order is that it often only delays the
 26 inevitable and squanders the Court's finite resources. The circumstances here do not indicate that
 27 this case will be an exception: there is no hint that Reed needs additional time or evidence that he
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1 did not receive the Court's screening order. Setting another deadline is not a meaningful alternative
2 given these circumstances. So the fifth factor favors dismissal.

3 **II. CONCLUSION**

4 Having thoroughly considered these dismissal factors, the Court finds that they weigh in
5 favor of dismissal.

6 **IT IS THEREFORE ORDERED** that this action is dismissed without prejudice based on
7 Reed's failure to file an amended complaint in compliance with this Court's April 10, 2025, order
8 and for failure to state a claim. The Clerk of Court is directed to enter judgment accordingly and
9 close this case.

10 **IT IS FURTHER ORDERED** that Reed may move to reopen this case and vacate the
11 judgment by filing a motion for reconsideration within thirty days of the entry of this Order. In
12 this motion, Reed would need to explain the circumstances which led to his not being able to file
13 an amended complaint as directed by the Court. If the Court finds there is good cause or a
14 reasonable explanation for the failure, the Court will reopen the case and vacate the judgment.

15 **IT IS FURTHER ORDERED** that Reed's application to proceed *in forma pauperis* (ECF
16 No 1) is **DENIED** as moot.

17 **DATED:** May 30, 2025.

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RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE

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